

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**EDWARD C. BOONE**

**v.**

**DIANNE HOLLIS, et al.,**

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**NO. 6:09-CV-00570-LED-JDL**

**ORDER ADOPTING REPORT AND  
RECOMMENDATION OF MAGISTRATE JUDGE**

The above entitled and numbered civil action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. The Report and Recommendation of the Magistrate Judge (“Report”), which contains his proposed findings of fact and recommendation for the disposition of such action, has been presented for consideration (Doc. No. 23). The Magistrate Judge recommends granting Diane Hollis, Betty DeWeese and Gladys Herberger’s (collectively “Defendants”) motion to dismiss for lack of subject matter jurisdiction and failure to state a claim (Doc. No. 11). Edward C. Boone (“Plaintiff”) filed objections to the Report, arguing the Magistrate Judge’s recommendation was erroneous. (Doc. No. 25). The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. At a minimum, Plaintiff has not demonstrated that Federal Court is the proper forum for resolution of this dispute. All of the named Defendants are Texas residents, as is the Plaintiff, thus there is no diversity jurisdiction. Moreover, Plaintiff has not demonstrated that his claims invoke a federal question.

While this Court is of the opinion that Plaintiff also failed to state a claim, Plaintiff may be better served pursuing his claims in a different forum, such as Texas state court. This Court has no opinion of whether Plaintiff will successfully overcome any and all defenses available to Defendants in a different forum. Accordingly, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court.

**So ORDERED and SIGNED this 22nd day of September, 2010.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS  
UNITED STATES DISTRICT JUDGE**